

Memorandum

To: Planning and Zoning Commission
From: Randy Haynes, Senior Planner
Date: March 6, 2014
Re: Planning and Zoning Commission resolution to adopt the report of the Commission's building setback subcommittee

During the Planning and Zoning Commission workshop meeting on February 20, 2014, the Commission was presented the report, findings and recommendations of the three-member building setback subcommittee. At that time, staff was directed to prepare a resolution for consideration by the Commission formally accepting the work of the subcommittee. A draft resolution which is scheduled for consideration by the Commission during its regular meeting on March 6, 2014, is attached to this memorandum.

RESOLUTION NO. _____

A RESOLUTION BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BRYAN, TEXAS, ADOPTING THE FINDINGS AND RECOMMENDATIONS OF THE COMMISSION'S BUILDING SETBACK SUBCOMMITTEE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, minimum building setbacks are established to ensure quality of life and safety;

WHEREAS, the regulation of minimum building setbacks in the City of Bryan are found in the Land and Site Development Ordinance (Bryan Code of Ordinances, Chapter 62);

WHEREAS, among the duties and functions of Bryan Planning and Zoning Commission is to study planning items relating to zoning, general development, and future growth of the city;

WHEREAS, the suitability of current building setback standards came into question during the development and approval process of a residential subdivision;

WHEREAS, in response to the possibility that current standards were in need of review, a three-member subcommittee of the Planning and Zoning Commission was appointed to study the issue and report its findings;

WHEREAS, during a workshop meeting of the Planning and Zoning Commission on February 6 2014, the subcommittee presented its final report to the entire Planning and Zoning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BRYAN, TEXAS:

1.

That the Planning and Zoning Commission hereby adopts the findings and recommendations articulated in the Commission's building setback subcommittee's final report, which is attached hereto as Exhibit "A".

2.

That this resolution shall be effective immediately upon adoption.

PRESENTED and ADOPTED by the Planning and Zoning Commission of the City of Bryan, Texas, at a regular meeting on the 6th day of March, 2014.

ATTEST: CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

A.S. Hickle, Chairperson

APPROVED AS TO FORM:

Janis Kennedy Hampton

Exhibit “A”:

Building Side Setback Standards in Bryan, Texas

History, Analysis and Recommendations for Future Action

A Report of the Building Setback Subcommittee
City of Bryan Planning and Zoning Commission

February 20, 2014

INTRODUCTION AND OVERVIEW

In 2013, the suitability of current building setback standards came into question during the development and approval process of a residential subdivision. In response to the possibility that current standards were in need of review, a three-member subcommittee of the Planning and Zoning Commission was appointed to study the issue and report its findings. The committee met on January 30 and February 6, 2014. In addition to committee members and planning staff, the Chief Building Official and Fire Marshal took part in the January 30 meeting.

Specifically at issue was the requirement that no structure may be within 7.5 feet from a side property line, that measurement taken from the foundation. Roof structures and associated trim may overhang the minimum side setback up to 18 inches. The current 7.5 -foot setback standard was adopted March 10, 1998. Previously the standard required a minimum five-foot setback between any portion of the structure and the adjacent side property line.

It is the wish of the Planning and Zoning Commission to declare early in this document that the health safety and welfare of citizens is the primary goal of the Planning and Zoning Commission. Ensuring the safety of citizens by governing orderly development is important to the entire community. Given the purpose of this report, it is not the intention of the Planning and Zoning Commission to create an environment in Bryan that would decrease the availability of adequate housing, or place the development community in a position of competitive disadvantage.

RATIONALE FOR REGULATION

The rationale for regulation building setback is the same as for any other development regulation. Public health and safety, orderly development and prevention or abatement of slum and blight are almost always the underlying purpose for such regulations. Orderly development ensures the rights of property owners, surrounding property owners as well as the interests of the community as a whole. All are given proper weight during the design and decision making process involved in new, infill or redevelopment.

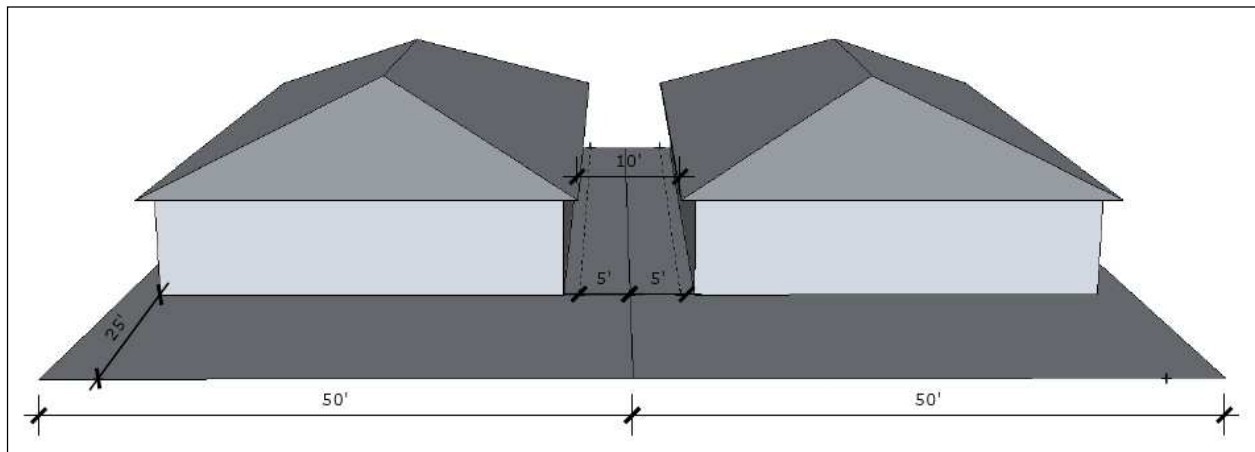
RELEVANT ORDINANCES

- Chapter 62 - Land and Site Development Ordinance
- Chapter 14 - Buildings and Building Regulations, International Building Code, 2009; International Residential Code, 2009

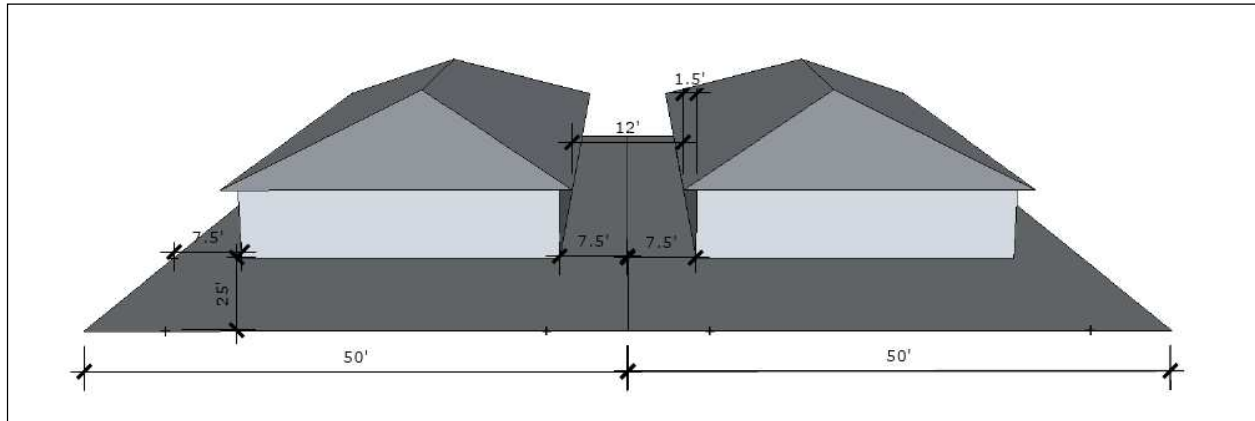
Chapter 62 – Land and Site Development

The regulation of minimum building setbacks are found in the Land and Site Development Ordinance. Although located in various other parts of city code, Bryan has required minimum building setbacks since at least 1967 at which time the rule first appeared in the Subdivision Control Ordinance. Until 1998, a minimum five-foot setback between any portion of a structure and the adjacent side property line was required. In March 1998, the rule was amended to state that no structure may be located within 7.5 feet from a side property line, that measurement taken from the foundation to help guarantee that even with an allowable 18-inch overhang of the roof structure and associated trim into that required side yard, a minimum 12-foot separation between structures on adjoining lots is guaranteed.

5-FOOT SETBACK MEASURED FROM THE OVERHANG GUARANTEES A MINIMUM 10-FOOT SEPARATION:



7.5-FOOT SETBACK, MEASURED TO THE SLAB/OUTSIDE WALL GUARANTEES A MINIMUM 12-FOOT SEPARATION:

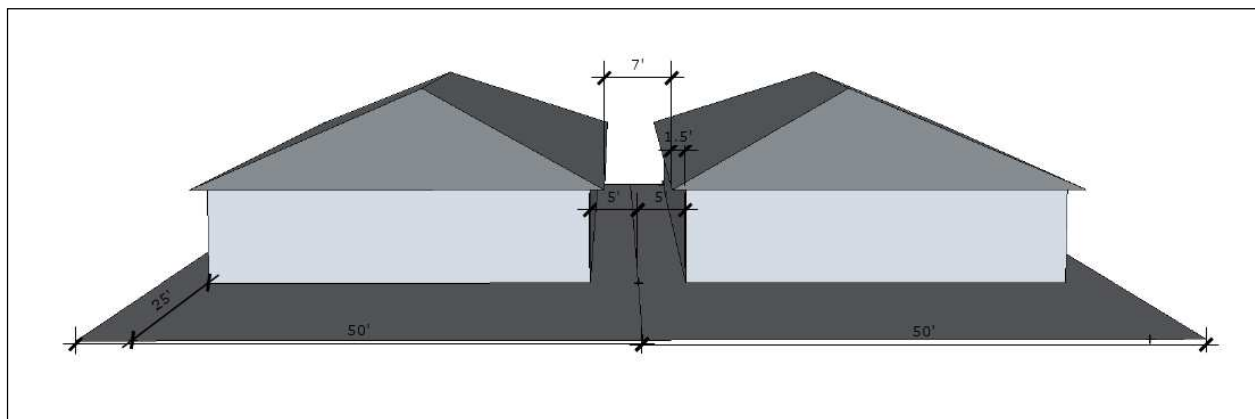


DISCUSSION

Minimum building setbacks are established for two fundamental reasons; quality of life and safety. From the quality of life perspective, building setbacks allow a certain measure of privacy between neighbors, provide space for light and air circulation, and provide open space for landscaping and recreational use. They also provide distance between neighbors to mitigate noise and odors. They also provide space for maintenance on the structure. **The committee finds that it is the safety factor that has the potential to be most compromised when minimum setbacks are reduced.**

In 2000, an amendment to a portion of the building code was adopted that eliminated the requirement that portions of a structure located closer than 10 feet from one another be built in a manner that would resist propagation of fire. One reason for this exception was that two years earlier, the 7.5-foot side setback standard was adopted, providing a minimum of 12 feet of separation between structures. Because of this exception, when development is allowed with reduced side building setbacks, the building code is unable to provide the needed measure of safety.

5-FOOT SETBACKS, MEASURED FROM THE SLAB/OUTSIDE WALL ALLOW ONLY A 7-FOOT SEPARATION OF STRUCTURES.



As previously reported to the Planning and Zoning Commission, the subcommittee discussed the fact that since 1998, setbacks reduced to 5-foot measured from the slab/outside wall have been adopted for the following residential subdivisions:

- Cottage Grove (2002) Stylecraft Builders
- Briar Meadows (2005) Burton Creek Development
- Autumn Lake (2006) Stylecraft Builders
- Siena (2009) Stylecraft Builders
- Edgewater (2013) WBW Development/Stylecraft Builders

The committee discussed the claim made during the most recent request to reduce side building setbacks that *“7.5-foot setbacks would cause a 10% reduction in the number of lots, which may make the project not feasible given other development costs”*. The subcommittee discussed the likelihood that failure to accept reduced development standards would decrease the availability of adequate housing, or place the development community in a position of competitive disadvantage.

The Fire Marshal addressed the subcommittee on the subject of the increased likelihood that fire would spread more rapidly in areas with reduced setbacks where no other mitigating factors were employed such as increased fire rating by design and materials. The Fire Marshal stated that past decisions to reduce side building setbacks had been made without considering the whole context of the issue, and that such a practice has created unsafe conditions.

FINDINGS

- 1. The subcommittee finds that it is above described circumstances, that is the fact that an amendment has rendered Bryan’s currently adopted building code unable to mandate the proper design and construction techniques that helps prevent undesirable, unsafe conditions when development is allowed with reduced side setbacks.**
- 2. It is the subcommittee’s finding that more care should be given when considering reduction of side setbacks, for example, to include specific information submitted by the applicant showing how physical conditions as the result of the revised standard could be mitigated to avoid compromise to public safety.**
- 3. It is the subcommittee’s finding that failure to accept reduced building setback standards will decrease the availability of adequate housing, or place the development community in a position of competitive disadvantage, is unlikely.**

RECOMMENDATION

After a thorough review of the facts and applicable ordinances, it is the recommendation of the subcommittee that:

- **No changes are made to the currently adopted 7.5-foot side building setback standard.**
- **The exception made in 2000 to the building code granting relief from providing proper fire rated design and materials be removed.**
- **Future requests for reduction of side building setbacks clearly address the issue of fire safety and employ specific measures to militate against the resulting lack of open space and increased fire danger.**